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H. R. 6433

To impose sanctions on individuals who are complicit in human rights abuses committed against nationals of Vietnam or their family members, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2010

Mr. CAO (for himself, Ms. ROS-LEHTINEN, Mr. SMITH of New Jersey, Mr. ROYCE, Mr. WOLF, and Ms. LORETTA SANCHEZ of California) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on the Judiciary, Ways and Means, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To impose sanctions on individuals who are complicit in human rights abuses committed against nationals of Vietnam or their family members, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Vietnam Human
5 Rights Sanctions Act”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The relationship between the United States
4 and the Socialist Republic of Vietnam has grown
5 substantially since the end of the trade embargo in
6 1994, with annual trade between the countries
7 reaching more than \$15,200,000,000 in 2008.

8 (2) The transition of the Government of Viet-
9 nam toward greater economic activity and trade has
10 not been matched by greater political freedom and
11 substantial improvements in basic human rights for
12 the citizens of Vietnam, including freedom of reli-
13 gion, expression, association, and assembly.

14 (3) The United States Congress agreed to Viet-
15 nam becoming an official member of the World
16 Trade Organization in 2006, amidst assurances that
17 the Government of Vietnam was steadily improving
18 its human rights record and would continue to do so.

19 (4) Despite assurances that Vietnam's accession
20 to the World Trade Organization would be met with
21 greater respect for human rights, the Government of
22 Vietnam has continued to strictly regulate some reli-
23 gious practices and to imprison or put under house
24 arrest an undetermined number of individuals for
25 their peaceful advocacy of political views or religious
26 beliefs, including Father Nguyen Van Ly, Tran

1 Huynh Duy Thuc, Nguyen Tien Trung, Le Thang
2 Long, Tran Duc Thach, Tran Anh Kim, Pham Van
3 Troi, Nguyen Xuan Nghia, Nguyen Van Tuc,
4 Nguyen Manh Son, Nguyen Manh Tinh, Ngo
5 Quynh, Nguyen Kim Nhan, Truong Minh Duc,
6 Nguyen Van Hai, Vu Hung, Tran Khai Thanh
7 Thuy, and Pham Thanh Nghien, and human rights
8 lawyers, Le Cong Dinh, Nguyen Van Dai, and Le
9 Thi Cong Nhan. Others arrested during 2010 are
10 being held incommunicado, including Cu Huy Ha
11 Vu, Pham Minh Hoang, Phan Thanh Hai, and Vi
12 Duc Hoi.

13 (5) Vietnam remains a one-party state, ruled
14 and controlled by the Communist Party of Vietnam,
15 which continues to deny the right of citizens to
16 change their government.

17 (6) Although in recent years the National As-
18 sembly of Vietnam has on occasion played a role as
19 a forum for highlighting local concerns, corruption,
20 and inefficiency, the National Assembly remains sub-
21 ject to the direction of the Communist Party of Viet-
22 nam and that party maintains control over the selec-
23 tion of candidates in national and local elections.

24 (7) The Government of Vietnam forbids public
25 challenge to the legitimacy of the one-party state, re-

1 stricts freedoms of opinion, the press, assembly, and
2 association, and tightly limits access to the Internet
3 and telecommunication. Cyberattacks originating
4 from Vietnam-based servers have disabled dissident
5 websites and the Government of Vietnam introduced
6 new restrictions on public internet shops while con-
7 tinuing to restrict access to numerous overseas and
8 domestic blogs, news sites, and other websites per-
9 ceived to carry content critical of the Government of
10 Vietnam.

11 (8) The Government of Vietnam continues to
12 detain, imprison, place under house arrest, convict,
13 and otherwise restrict individuals for the peaceful
14 expression of dissenting political or religious views,
15 including democracy and human rights activists,
16 independent trade union leaders, non-state-sanc-
17 tioned publishers, journalists, bloggers, members of
18 ethnic minorities, and unsanctioned religious groups.

19 (9) The Government of Vietnam has also failed
20 to improve labor rights, continues to harass, arrest,
21 and imprison workers rights activists, including
22 Doan Huy Chuong, Do Thi Minh Hanh, and
23 Nguyen Hoang Quoc Hung, and restricts the right
24 to organize independently.

1 (10) The Government of Vietnam continues to
2 limit freedom of religion, pressure all religious
3 groups to come under the control of government-
4 and party-controlled management boards, and re-
5 strict the operation of independent religious organi-
6 zations, including the Unified Buddhist Church of
7 Vietnam and members of unsanctioned Mennonite,
8 Cao Dai, Theravada Buddhist, and Hoa Hao Bud-
9 dhist religious groups and independent Protestant
10 house churches, primarily in the central and north-
11 ern highlands. Religious leaders who do not conform
12 to the Government's demands are often harassed,
13 arrested, imprisoned, or put under house arrest.

14 (11) As noted in the October 2009 report of the
15 United States Commission on International Reli-
16 gious Freedom, "[T]here continue to be far too
17 many serious abuses and restrictions of religious
18 freedom in the country. Individuals continue to be
19 imprisoned or detained for reasons related to their
20 religious activity or religious freedom advocacy; po-
21 lice and government officials are not held fully ac-
22 countable for abuses; independent religious activity
23 remains illegal; and legal protection for government-
24 approved religious organizations are both vague and
25 subject to arbitrary or discriminatory interpretations

1 based on political factors. In addition, improvements
2 experienced by some religious communities are not
3 experienced by others, including the Unified Bud-
4 dhist Church of Vietnam (UBCV), independent Hoa
5 Hao, Cao Dai, and Protestant groups, and some eth-
6 nic minority Protestants and Buddhists. Also, over
7 the past year, property disputes between the govern-
8 ment and the Catholic Church in Hanoi led to deten-
9 tion, threats, harassment, and violence by ‘contract
10 thugs’ against peaceful prayer vigils and religious
11 leaders.”.

12 (12) Despite reported progress in church open-
13 ings and legal registrations of religious venues, the
14 Government of Vietnam has halted most religious re-
15 forms since the Department of State lifted the
16 “country of particular concern” for religious freedom
17 violations designation for Vietnam in November
18 2006.

19 (13) Unregistered ethnic minority Protestant
20 congregations suffer severe abuses because of actions
21 by the Government of Vietnam, which have included
22 forced renunciations of faith, pressure to join gov-
23 ernment-recognized religious groups, arrest and har-
24 assment, the withholding of social programs pro-
25 vided for the general population, destruction of

1 churches and pagodas, confiscation and destruction
2 of property, and subjection to severe beatings.

3 (14) During peaceful Catholic prayer vigils call-
4 ing for the return of government-confiscated church
5 properties during 2008 at the Thai Ha Church in
6 Ha Noi, protestors were dispersed after being har-
7 assed, some were detained, and some of the church
8 property was destroyed. Similar incidents happened
9 at Bau Sen, Loan Ly, and Tam Toa parishes in cen-
10 tral Vietnam and more recently at Dong Chiem par-
11 ish in Hanoi, where religious statues and a crucifix
12 were destroyed and parishioners and clergies were
13 physically harmed, and at Con Dau parish, where
14 police forcibly dispersed a Catholic funeral ceremony
15 in May 2010 to a cemetery located on disputed land.
16 Afterwards, police and members of the civilian de-
17 fense forces arrested and interrogated dozens of Con
18 Dau parishioners, with one parishioner dying from
19 injuries sustained during a beating in July 2010 by
20 civilian defense forces and two women suffered mis-
21 carriages resulted from police tortures. Catholics
22 continue to face some restrictions on selection of
23 clergy, the establishment of seminaries and seminary
24 candidates, and restrictions on individual cases of
25 travel and church registration. Dissident clerics such

1 as Father Phan Van Loi and Father Nguyen Van
2 Ly are currently under house arrest.

3 (15) The Unified Buddhist Church of Vietnam
4 suffers persecution as the Government of Vietnam
5 continues to restrict contacts and movement of sen-
6 ior clergy for refusing to join the state-sponsored
7 Buddhist organizations, the Government restricts ex-
8 pression and assembly, and the Government con-
9 tinues to harass and threaten monks, nuns, and
10 youth leaders of the Unified Buddhist Church of
11 Vietnam. The Supreme Patriarch of Unified Bud-
12 dhist Church of Vietnam, Thich Quang Do, is cur-
13 rently under house arrest.

14 (16) The Bat Nha Buddhists monastery in
15 Lam Dong province was attacked by government
16 thugs in October 2009. About 400 monks and nuns
17 were physically abused and forcibly evicted from the
18 monastery.

19 (17) The Government of Vietnam continues to
20 suppress the activities of other religious adherents,
21 including Cao Dai, Hoa Hao, Mennonites, and
22 Montagnard Christians belonging to churches that
23 lack official recognition or have chosen not to affil-
24 iate with the state-sanctioned groups, including
25 through the use of detention and imprisonment.

1 (18) During Easter weekend in April 2004,
2 thousands of Montagnard Christians in the Central
3 Highlands gathered to protest their treatment by the
4 Government of Vietnam, including the confiscation
5 of tribal lands and ongoing restrictions on religious
6 activities. Credible reports indicate that the protests
7 were met with violent response as many demonstra-
8 tors were arrested or went into hiding, that many
9 were injured, and that some were killed. At least
10 200 of these Montagnard Christians are still serving
11 long sentences for their involvement in peaceful dem-
12 onstrations in 2001 and 2004. Government officials
13 continue to severely restrict movement by the
14 Montagnards and prohibit them from seeking asy-
15 lum in Cambodia. Many Montagnards were also im-
16 prisoned and otherwise mistreated for their involve-
17 ment in demonstrations in 2008.

18 (19) Ethnic minority Hmong in the Northwest
19 Highlands of Vietnam also suffer restrictions,
20 abuses, and persecution by the Government of Viet-
21 nam, and although the Government is now allowing
22 some Hmong Protestants to organize and conduct
23 religious activity, some government officials continue
24 to deny or ignore additional applications for reg-
25 istration.

1 (20) In 2007, the Government of Vietnam ar-
2 rested and expelled at least 20 ethnic Khmer Bud-
3 dhist monks in Soc Trang province from the monk-
4 hood and imprisoned 5 monks in response to a
5 peaceful religious protest in February 2007. In July
6 2010, authorities in Tra Vinh arrested and pur-
7 ported to defrock Khmer Krom Buddhist abbot
8 Thach Sophon, sentencing him in September to a 9-
9 month suspended sentence. He remains under house
10 arrest.

11 (21) The Government of Vietnam controls all
12 print and electronic media, including access to the
13 Internet, jams the signals of some foreign radio sta-
14 tions, including Radio Free Asia, and has detained
15 and imprisoned individuals who have posted, pub-
16 lished, sent, or otherwise distributed democracy-re-
17 lated materials.

18 (22) People arrested in Vietnam because of
19 their political or religious affiliations and activities
20 and charged with vaguely defined national security
21 crimes are not accorded due process of law. During
22 the pre-trial investigatory phase of their detention,
23 religious and political prisoners are often held in-
24 communicado without access to legal counsel and
25 family members. They are routinely tortured during

1 interrogation to force them to confess to crimes they
2 did not commit or to falsely denounce others. Their
3 trials are usually closed to international press and
4 diplomats and members of the public.

5 (23) Vietnam continues to be a source country
6 for the commercial sexual exploitation and forced
7 labor of women and girls and for men and women
8 legally entering into international labor contracts
9 who subsequently face conditions of debt bondage or
10 forced labor, and is a destination country for child
11 trafficking and continues to have internal human
12 trafficking.

13 (24) Labor export companies partly or wholly
14 owned by the Ministry of Labor, War Invalids and
15 Social Affairs, and other agencies of the Government
16 of Vietnam have frequently been identified as par-
17 ticipants in human trafficking. There are a number
18 of well-documented cases in which these state enter-
19 prises have misled workers by promising specific
20 wages and working conditions, often in the form of
21 signed contracts, only to require the workers to sign
22 different contracts immediately before leaving for
23 their foreign destinations. When workers have pro-
24 tested debt bondage or slavery-like conditions in the
25 foreign workplaces to which these Vietnamese state

1 enterprises have sent them, officials of the Ministry
2 of Labor have traveled from Hanoi to threaten the
3 trafficking victims with “punishment under the laws
4 of Vietnam” if they do not cease their protests.
5 Workers who have returned to Vietnam after being
6 exploited by their foreign employers have reported
7 being harassed and intimidated by public security
8 forces, who typically accuse them of being liars, col-
9 laborating with reactionary forces overseas, and hav-
10 ing betrayed their country.

11 (25) United States refugee resettlement pro-
12 grams, including the Humanitarian Resettlement
13 Program, the Orderly Departure Program, the Re-
14 settlement Opportunities for Vietnamese Returnees
15 Program, general resettlement of boat people from
16 refugee camps throughout Southeast Asia, the
17 Amerasian Homecoming Act of 1988, and the pri-
18 ority one refugee resettlement category have helped
19 resettle nationals of Vietnam who have suffered per-
20 secution on account of their associations with the
21 United States as well as nationals of Vietnam who
22 have been persecuted because of race, religion, na-
23 tionality, political opinion, or membership in a par-
24 ticular social group.

1 (26) While previous programs have served their
2 purposes well, a significant number of eligible refu-
3 gees from Vietnam were unfairly denied or excluded,
4 including Amerasians and Montagnards, in some
5 cases by vindictive or corrupt officials of Vietnam
6 who controlled access to the programs, and in others
7 by United States personnel who imposed unduly re-
8 strictive interpretations of program criteria. In addi-
9 tion, the Government of Vietnam has denied pass-
10 ports to persons whom the United States has found
11 eligible for refugee admission.

12 (27) Congress has passed numerous resolutions
13 condemning human rights violations in Vietnam, in-
14 dicating that although there has been an expansion
15 of relations with the Government of Vietnam, it
16 should not be construed as approval of the ongoing
17 and serious violations of fundamental human rights
18 in Vietnam, particularly those enshrined in the
19 International Covenant on Civil and Political Rights,
20 of which Vietnam is a signatory.

21 (28) Enhancement of relations between the
22 United States and Vietnam has provided an oppor-
23 tunity for a human rights dialogue, but is unlikely
24 to lead to future progress on human rights issues in
25 Vietnam unless the United States makes clear that

1 such progress is an essential prerequisite for further
2 enhancements in the bilateral relationship.

3 **SEC. 3. IMPOSITION OF SANCTIONS ON CERTAIN INDIVID-**
4 **UALS WHO ARE COMPLICIT IN HUMAN**
5 **RIGHTS ABUSES COMMITTED AGAINST NA-**
6 **TIONALS OF VIETNAM OR THEIR FAMILY**
7 **MEMBERS.**

8 (a) IN GENERAL.—Except as provided in subsections
9 (d) and (e), the President shall impose sanctions described
10 in subsection (c) with respect to each individual on the
11 list required by subsection (b).

12 (b) LIST OF INDIVIDUALS WHO ARE COMPLICIT IN
13 CERTAIN HUMAN RIGHTS ABUSES.—

14 (1) IN GENERAL.—Not later than 90 days after
15 the date of the enactment of this Act, the President
16 shall submit to the appropriate congressional com-
17 mittees a list of individuals who are nationals of
18 Vietnam that the President determines are complicit
19 in human rights abuses committed against nationals
20 of Vietnam or their family members, regardless of
21 whether such abuses occurred in Vietnam.

22 (2) UPDATES OF LIST.—The President shall
23 submit to the appropriate congressional committees
24 an updated list under paragraph (1) as new infor-

1 mation becomes available and not less frequently
2 than annually.

3 (3) PUBLIC AVAILABILITY.—The list required
4 by paragraph (1) shall be made available to the pub-
5 lic and posted on the websites of the Department of
6 the Treasury and the Department of State.

7 (4) CONSIDERATION OF DATA FROM OTHER
8 COUNTRIES AND NONGOVERNMENTAL ORGANIZA-
9 TIONS.—In preparing the list required by paragraph
10 (1), the President shall consider data already ob-
11 tained by other countries and nongovernmental orga-
12 nizations, including organizations in Vietnam, that
13 monitor the human rights abuses of the Government
14 of Vietnam.

15 (c) SANCTIONS DESCRIBED.—The sanctions de-
16 scribed in this subsection are the following:

17 (1) PROHIBITION ON ENTRY AND ADMISSION TO
18 THE UNITED STATES.—An individual whose name
19 appears on the list required by subsection (b)(1)
20 may not—

21 (A) be admitted to, enter, or transit
22 through the United States;

23 (B) receive any lawful immigration status
24 in the United States under the immigration

1 laws, including any relief under the Convention
2 Against Torture; or

3 (C) file any application or petition to ob-
4 tain such admission, entry, or status.

5 (2) FINANCIAL SANCTIONS.—The President
6 shall impose sanctions authorized pursuant to sec-
7 tion 203 of the International Emergency Economic
8 Powers Act (50 U.S.C. 1702) with respect to an in-
9 dividual whose name appears on the list required by
10 subsection (b)(1), including blocking of the property
11 of, and restricting or prohibiting financial trans-
12 actions and the exportation and importation of prop-
13 erty by, the individual.

14 (d) EXCEPTIONS TO COMPLY WITH INTERNATIONAL
15 AGREEMENTS.—The President may, by regulation, au-
16 thorize exceptions to the imposition of sanctions under this
17 section to permit the United States to comply with the
18 Agreement between the United Nations and the United
19 States of America regarding the Headquarters of the
20 United Nations, signed June 26, 1947, and entered into
21 force November 21, 1947, and other applicable inter-
22 national agreements.

23 (e) WAIVER.—The President may waive the require-
24 ment to impose or maintain sanctions with respect to an
25 individual under subsection (a) or the requirement to in-

1 clude an individual on the list required by subsection (b)
2 if the President—

3 (1) determines that such a waiver is in the na-
4 tional interest of the United States; and

5 (2) submits to the appropriate congressional
6 committees a report describing the reasons for the
7 determination.

8 (f) TERMINATION OF SANCTIONS.—The provisions of
9 this section shall cease to have force and effect on the date
10 on which the President determines and certifies to the ap-
11 propriate congressional committees that the Government
12 of Vietnam has—

13 (1) unconditionally released all political pris-
14 oners;

15 (2) ceased its practices of violence, unlawful de-
16 tention, torture, and abuse of citizens of Vietnam
17 while engaging in peaceful political activity; and

18 (3) conducted a transparent investigation into
19 the killings, arrest, and abuse of peaceful political
20 activists in Vietnam and prosecuted those respon-
21 sible.

22 (g) DEFINITIONS.—In this section:

23 (1) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term “appropriate congressional com-
25 mittees” means—

1 (A) the Committee on Finance, the Com-
2 mittee on Banking, Housing, and Urban Af-
3 fairs, and the Committee on Foreign Relations
4 of the Senate; and

5 (B) the Committee on Ways and Means,
6 the Committee on Financial Services, and the
7 Committee on Foreign Affairs of the House of
8 Representatives.

9 (2) CONVENTION AGAINST TORTURE.—The
10 term “Convention Against Torture” means the
11 United Nations Convention Against Torture and
12 Other Cruel, Inhuman or Degrading Treatment or
13 Punishment, done at New York on December 10,
14 1984.

15 (3) IMMIGRATION LAWS; NATIONAL.—The
16 terms “immigration laws” and “national” have the
17 meanings given those terms in section 101 of the
18 Immigration and Nationality Act (8 U.S.C. 1101).

○